

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., HTC CORPORATION, HTC AMERICA, INC.,  
ZTE CORPORATION, AND ZTE (USA), INC.,

Petitioners,

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,

Patent Owner.

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Case IPR2016-01493<sup>1</sup>  
Patent 8,457,676

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**PETITIONERS' RESPONSE TO PATENT OWNER'S MOTION FOR  
OBSERVATION ON CROSS EXAMINATION**

Mail Stop Patent Board  
Patent Trial and Appeal Board  
P.O. Box 1450  
Alexandria, VA 22313-1450

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<sup>1</sup> HTC Corporation, HTC America, Inc., ZTE Corporation, and ZTE (USA), Inc. filed a petition in (now terminated) IPR2017-01081, and have been joined to the instant proceeding.

## **I. INTRODUCTION**

In accordance with the Board's oral order, Petitioners HTC Corporation, HTC America, Inc., ZTE Corporation, and ZTE (USA), Inc. ("Petitioners") hereby submit the instant Response to Patent Owner's Motion for Observations on Cross Examination, filed by Patent Owner on November 3, 2017 (Paper No. 29).

## **II. RESPONSE TO PATENT OWNER OBSERVATIONS 1-16**

### **A. Response to Observation 1**

Patent Owner suggests that Dr. Haas's limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner's observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-19:16; Ex. 1021 ¶4. Dr. Haas's Supplemental Declaration does not address the issue raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

### **B. Response to Observation 2**

Patent Owner suggests that Dr. Haas's limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner's observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-19:16; Ex. 1021 ¶4. Dr. Haas's Supplemental Declaration does not address the issue

raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

### **C. Response to Observation 3**

Patent Owner suggests that Dr. Haas's limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner's observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-19:16; Ex. 1021 ¶4. Dr. Haas's Supplemental Declaration does not address the issue raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

### **D. Response to Observation 4**

Patent Owner suggests that Dr. Haas's limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner's observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-19:16; Ex. 1021 ¶4. Dr. Haas's Supplemental Declaration does not address the issue raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

### **E. Response to Observation 5**

Patent Owner points to Dr. Haas's testimony regarding Bark's Figures 13 through 15 and suggests that by not addressing those figures, Dr. Haas's testimony

is incomplete or unreliable. Patent Owner's observation is not relevant. Dr. Haas's testimony relates to Figure 12, which Bark expressly states is an example of a triggering event or condition. *See* Ex. 1021; Ex. 1005 at 7:63-65, 8:56-58, 11:11-20. Further, Dr. Haas's Supplemental Declaration does not address the issue raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

#### **F. Response to Observation 6**

Patent Owner points to Dr. Haas's testimony regarding Bark's Figures 13 through 15 and suggests that by not addressing those figures, Dr. Haas's testimony is incomplete or unreliable. Patent Owner's observation is not relevant. Dr. Haas's testimony relates to Figure 12, which Bark expressly states is an example of a triggering event or condition. *See* Ex. 1021; Ex. 1005 at 7:63-65, 8:56-58, 11:11-20. Further, Dr. Haas's Supplemental Declaration does not address the issue raised in Patent Owner's observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

#### **G. Response to Observation 7**

Patent Owner suggests that Dr. Haas's limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner's observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-

19:16, 52:5-54:17; Ex. 1021 ¶4. Dr. Haas’s Supplemental Declaration does not address the issue raised in Patent Owner’s observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

#### **H. Response to Observation 8**

Patent Owner suggests that Dr. Haas’s limited testimony is somehow relevant to issues he did not address in his Supplemental Declaration. Patent Owner’s observation is irrelevant. As Dr. Haas explained, he was only asked to provide an opinion on the areas addressed in his Supplemental Declaration. Ex. 2009 17:18-19:16, 52:5-54:17; Ex. 1021 ¶4. Dr. Haas’s Supplemental Declaration does not address the issue raised in Patent Owner’s observation, and thus his cross examination is not relevant to that issue. *See* 37 C.F.R. § 42.53(d)(5)(ii).

#### **I. Response to Observation 9**

Patent Owner argues that Dr. Haas’s testimony on Bark’s disclosure in the embodiment depicted in Figure 12 is somehow relevant to Patent Owner’s position that Bark does not disclose an absolute difference. Patent Owner’s observation is irrelevant. As the entirety of Dr. Haas’s testimony demonstrates, Bark’s disclosure teaches to those of ordinary skill in the art that the measured change in parameters—including path-loss—is an absolute difference based on, among other things, Bark expressly refers to measuring “change,” and slope in the context of a typical periodic

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